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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,989	03/31/2004	Roy K. Greenberg	8627-372	8184

757 7590 11/27/2006

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EXAMINER

PHILOGENE, PEDRO

ART UNIT	PAPER NUMBER
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3733

DATE MAILED: 11/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/814,989

Applicant(s)

GREENBERG ET AL.

Examiner

Pedro Philogene

Art Unit

3733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 7/2/04, 12/19/05, 6/30/06.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bates (5,944,728) in view of Bates et al. (5,788,710).

With respect to claim 1, Bates disclose a medical grasping device comprising: an elongate control member (23) having an atraumatic distal tip section (22), as best seen in FIG.1, and a proximal end portion; the elongate control member further including a grasping portion (16) proximal the distal tip section; an outer sheath (14) with a passageway therethrough, as best seen in FIG.1, surrounding the elongate control member and relatively movable with respect thereto.

Although Bates teaches of an actuation section, as set forth in column 4, lines 1-67, it is noted that Bates, did not teach of an actuation section, as claimed by applicant. However, in a similar art, Bates et al., evidences such an actuation section with retraction mechanism that biases the actuation section to enable the control deployment and displacement of a device.

Therefore, given the teaching of Bates et al., it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the actuation section, as taught by Bates et al, in the device of Bates, to urge the medical grasping device from a retracted to an expanded position.

With respect to claims 2-11, the above combination of references teaches all the limitations, as set forth in Bates, column 3, lines 45-67, column 4, lines 1-67, column 5, lines 1-67, column 6, lines 1-61 and as best seen in FIGS. 1-7; also as set forth in Bates et al., column 4, lines 1-67, column 5, lines 1-67, column 6, lines 1-42, and as best seen in FIGS. 1-5.

Claims 12-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bates (5,944,728) in view of Bates et al. (5,788,710) in view of Hillstead (5,098,440).

With respect to claims 12-22, it is noted that the above combination of references teaches all the limitations, except for wire loops that are substantially circular upon full deployment, as claimed by applicant. However, in a similar art, Hillstead evidences the use of wire loops that are circular upon full deployment and having side sections that overlap and touch the vessel wall to engage the object to be retrieved with a greater force.

Therefore, given the teaching of Hillstead, it would have been obvious to one having ordinary skill in the art, at the time the invention was made to incorporate the design of the grasping device of Hillstead in the grasping device of Bates/Bates et al. to engage the object to be retrieved with a greater force.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5,562,678

10-1996

Booker

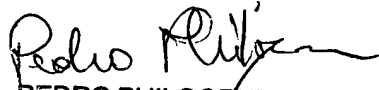
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pedro Philogene whose telephone number is (571) 272-4716. The examiner can normally be reached on Monday to Friday 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on (571) 272 - 4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Pedro Philogene  
November 21, 2006

  
PEDRO PHILOGENE  
PRIMARY EXAMINER